



**COMMONWEALTH of VIRGINIA
Department of Education**

DATE: September 8, 2017
TO: Division Superintendents
FROM: Steven R. Staples, Superintendent of Public Instruction
SUBJECT: **Accommodating Disabilities in the School Meals Program**

The purpose of this memo is to outline requirements for Local Education Agencies (LEAs) participating in the USDA School Meals Program to provide reasonable modification to Program meals or meal service to accommodate children with disabilities. This memo and attachments replace FNS Instruction 783-2, Rev.2, *Meal Substitutions for Medical or other Special Dietary Reasons*. The American with Disabilities Act Amendments of 2008, P.L. 110-235 (ADA Amendments Act) clarified that Congress intends the term disability to be broad and inclusive. The central concern for School Food Authorities (SFAs) should be ensuring equal access to Program benefits for children with disabilities. This memo references School Programs (SP) 59-2016, SP 26-2017 and SP 40-2017.

Background

USDA Program regulations require SFAs to ensure that breakfast, lunch, snack or milk (meals) offered through the School Meals Program meet the respective meal pattern requirements established in the Program regulations. Federal law and USDA regulation further require SFAs to make reasonable modifications to accommodate children with disabilities. This includes providing special meals, at no extra charge, to children with a disability when the disability restricts the child's diet.

Modifications to Accommodate Disabilities in the School Meals Program (Attachment A)

This attachment outlines the requirements for SFAs to provide reasonable modifications to accommodate disabilities in the School Meals Program. It also contains a question and answer section to provide practical guidance to common questions and situations. This guidance also explains safeguards required to ensure parents and children have notice of the procedure for requesting meal modifications and the process for resolving disputes.

Medical Statement to Request Special Meals and/or Accommodations (Attachment B)

Program regulations require SFAs to provide modifications for children with disabilities on a case-by-case basis only when requests are supported by a written statement from a licensed healthcare professional. In Virginia, a licensed healthcare professional includes a physician, physician assistant, or nurse practitioner. In addition, meals that do not meet the Program meal pattern are not eligible for reimbursement unless supported by a medical statement.

SFAs may not require a specific diagnosis by name of the disability but rather a description of the physical or mental impairment that allows the SFA to understand how it restricts the child's diet. The statement must also include what must be done to accommodate the disability. If appropriate, the food or foods to be omitted and recommended alternatives should also be included on the statement. If the SFA believes the medical statement is unclear, or lacks sufficient detail, they must obtain clarification so that a safe meal can be provided.

A medical statement is not required if the child's Individualized Education Program (IEP) or 504 Plan includes all of the required information. Meeting with the parents or guardians, teachers and administrators can help ensure the IEP contains the required information and helps to best accommodate the child in the school setting.

SFAs are **not** required to obtain an updated medical statement on a regular basis. SFAs may require an update as necessary to reflect the current dietary needs of the participating children. When requiring an update, please consider the burden that obtaining additional medical statements could create for parents and guardians. Once the update is received, the SFA must ensure that all information is revised to reflect the current dietary needs of the child.

There are some cases where the disability can be managed within the Program meal pattern and would not require a medical statement. For instance, a textural modification of the food or a single substitution of a fruit or vegetable component can be claimed as reimbursable and do not require a medical statement. However, offer versus serve cannot be used as a way to ask a child with a disability to exclude certain components they may not be allowed to eat. Children with disabilities must have the option to select all food components made available to other children.

There are some cases a meal modification may result in a meal that does not meet the meal pattern. SFAs **can** receive reimbursement for a modified meal that does not meet the pattern only when there is an approved medical statement signed by a state licensed healthcare professional on file.

Accommodating Children with Disabilities in School Meals Program - Guidance for School Food Service Professionals (Attachment C)

This document provides guidance on the requirement for school food authorities to ensure equal access to Program benefits for children with disabilities, which includes providing special meals to children with a disability that restricts their diet.

If you have any questions about the how to accommodate children with disabilities or the medical statement, please email SNPPolicy@doe.virginia.gov.

SRS/SCC/ag

Attachments:

- A. [Modifications to Accommodate Disabilities in the School Meals Program](#) (Word)
- B. [Medical Statement to Request Special Meals and/or Accommodations](#) (Word)
- C. [Accommodating Children with Disabilities in School Meals Program - Guidance for School Food Service Professionals](#) (PDF)